IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4705 OF 2004

BABASAHEB SIRAJ KOLHAPURE ... Petitioner
vs.
RAMIJABI KHUTABUDDIN MULLA &; ORS. ... respondents

P. R. Arjunwadekar for petitioner.
P.N. Karlekar for respondent nos. 1 to 4.

CORAM: **MRS. ROSHAN DALVI J.**

DATE:13/3/2006

**P.C.:**

Rule. Returnable forthwith.

The petitioner has sued the respondent for protection of his possession in respect of the suit land bearing survey no.1079. That land is partitioned between the family of the petitioner and his brothers. The petitioner claims to have been continued in possession of the northern most part of this land. The petitioner claims injunction against the successors in title of one of the brothers. The petitioner must show his continuous possession to the northern most part of survey no.1079. The petitioner has produced 7/12 extracts of survey no.1079. 7/12 extract shows the name of the petitioner as also of respondents. 7/12 extract do not show which precise land the petitioner has after partition, for which the suit is pending. No mutation entry showing the partition and the precise shares is shown to be made. The petitioner has produced xerox copies of certain receipts in respect of the owners of the land, who are Shri Shahaji

Chatrapati General Charitable Trust, Kolhapur. The rent receipts also do not show that it is issued for a particular portion of survey no.1079. The petitioner has relied upon an RTS entry. The revenue proceedings under which the name of the petitioner was incorporated in the 7/12 extract was ex parte decided. In those proceedings the panchanama and statements are recorded. All these transpired in the year 2002.

The learned appellate court, being the 4th Additional District Judge, Kolhapur in the impugned order dated 13.4.04 has broadly considered the lack of any prima facie case of the petitioner in the suit filed. The challenge to those orders cannot be sustained in view of the aforesaid documentary evidence of the petitioner. Writ petition is rejected.

(**MRS. ROSHAN DALVI J.**)